

DRAFT

TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY –
AIR POLLUTION CONTROL

July 26, 2007

ARTICLE 3. PERMIT AND PERMIT REVISIONS

Section
R18-2-326. Fees Related to Individual Permits

ARTICLE 5. GENERAL PERMITS

Section
R18-2-511. Fees Related to General Permits

ARTICLE 3. PERMITS AND PERMIT REVISIONS

R18-2-326. Fees Related to Individual Permits

A. Source Categories. The owner or operator of a source required to have an air quality permit from the Director shall pay the fees described in this Section unless authorized to operate under a general permit issued under Article 5. The fees are based on a source being classified in one of the following three categories:

1. Class I Title V sources are those required or that elect to have a permit under R18-2-302(B)(1).
2. Class II Title V sources are those required to have a permit under R18-2-302(B)(2) and for which either R18-2-302(B)(2)(a)(i) or (ii) applies.
3. Class II Non-Title V sources are those required to have a permit under R18-2-302(B)(2) and for which neither R18-2-302(B)(2)(a)(i) nor (ii) applies.

B. Fees for Permit Actions.

1. The owner or operator of a Class I Title V source, Class II Title V source, or Class II Non-Title V source shall pay to the Director the following:

a. \$133.50 per hour, adjusted annually under subsection (H), for all permit processing time required for a billable permit action; and

b. the actual costs of public notice conducted according to R18-2-330.

2. The Director may require periodic payment of permit processing fees based on the most recent accounting of time spent processing the permit including any fees for contractors.

3. Upon completion of permit processing activities other than issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final itemized bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. Except as provided in subsection (G), the Director shall not issue a permit or permit revision until the final bill is paid in full.

C. Class I Title V Fees. The owner or operator of a Class I Title V source that has undergone initial startup by January 1 shall annually pay to the Director an administrative fee plus an emissions-based fee as follows:

1. The applicable administrative fee from the table below, as adjusted annually under subsection (H). The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class I Title V Source Category	Administrative Fee
Aerospace	<u>\$22,400</u>
<u>Air Curtain Destructors</u>	<u>\$ TBD</u>
Cement Plants	<u>\$68,590</u>
Combustion/Boilers	<u>\$16,680</u>
Compressor Stations	<u>\$13,710</u>
Electronics	<u>\$22,070</u>
Expandable Foam	<u>\$15,810</u>
Foundries	<u>\$21,020</u>
Landfills	<u>\$17,190</u>
Lime Plants	<u>\$64,790</u>
Copper & Nickel Mines	<u>\$16,150</u>
Gold Mines	<u>\$16,150</u>
Mobile Home Manufacturing	<u>\$15,970</u>

Formatted: Indent: Left: 18 pt

Deleted: 98.80

Formatted: Indent: Left: 36 pt

Formatted: Indent: First line: 18 pt

Formatted: Indent: First line: 0 pt

Formatted: Indent: Left: 18 pt,
Hanging: 9 pt

Deleted: 14,540

Deleted: 44,520

Deleted: 10,820

Deleted: 8,900

Deleted: 14,320

Deleted: 10,260

Deleted: 13,640

Deleted: 11,150

Deleted: 41,700

Deleted: 10,480

Deleted: 10,480

Deleted: 10,370

Formatted: Font: 9 pt

* - Date based on approval from Governor's Regulatory Review Council

07/26/07

Paper Mills	<u>\$ 22,060</u>
Paper Coaters	<u>\$ 16,680</u>
Petroleum Products Terminal Facilities	<u>\$ 24,480</u>
Polymeric Fabric Coaters	<u>\$ 22,060</u>
Reinforced Plastics	<u>\$ 16,680</u>
Semiconductor Fabrication	<u>\$ 29,010</u>
Copper Smelters	<u>\$ 68,590</u>
Utilities - Natural Gas	<u>\$ 17,710</u>
Utilities - Fossil Fuel Except Natural Gas	<u>\$ 35,080</u>
Vitamin/Pharmaceutical Manufacturing	<u>\$ 17,020</u>
Wood Furniture	<u>\$ 16,680</u>
Others	<u>\$ 22,070</u>
Others with Continuous Emissions Monitoring	<u>\$ 22,070</u>

Deleted: 14,310

Deleted: 10,820

Deleted: 15,890

Deleted: 14,310

Deleted: 10,820

Deleted: 18,830

Deleted: 44,520

Deleted: 11,490

Deleted: 22,760

Deleted: 11,050

Deleted: 10,820

Deleted: 11,150

Deleted: 14,320

2. An emissions-based fee of \$ 38.25 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year ending 12 months earlier. The fee is adjusted annually under subsection (d) and due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Deleted: 13.24

- a. For purposes of this Section, "actual emissions" means the quantity of all regulated pollutants emitted during the calendar year, as determined by the annual emissions inventory under R18-2-327.
- b. For purposes of this Section, regulated pollutants consist of the following:
 - i. Nitrogen oxides and any volatile organic compounds;
 - ii. Conventional air pollutants, except carbon monoxide and ozone;
 - iii. Any pollutant that is subject to any standard promulgated under Section 111 of the Act, including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reduced sulfur compounds; and
 - iv. Any federally listed hazardous air pollutant.
- c. For purposes of this Section, the following emissions of regulated pollutants are excluded from a source's actual emissions:
 - i. Emissions of any regulated pollutant from the source in excess of 4,000 tons per year;
 - ii. Emissions of any regulated pollutant already included in the actual emissions for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM₁₀;
 - iii. Emissions from insignificant activities listed in the permit application for the source under R18-2-304(E)(8);
 - iv. Fugitive emissions of PM₁₀ from activities other than crushing, belt transfers, screening, or stacking; and
 - v. Fugitive emissions of VOC from solution-extraction units.

- d. The Director shall adjust the rate for emission-based fees every November 1, beginning on 11/1/07, by multiplying \$ 38.25 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

Deleted: November

Deleted: 5

Deleted: 2004

Deleted: 13.24

Deleted: 4

Formatted: Font: 9 pt

* - Date based on approval from Governor's Regulatory Review Council

D. Class II Title V Fees. The owner or operator of a Class II Title V source that has undergone initial startup by January 1 shall pay the applicable administrative fee from the table below, adjusted under subsection (H), for that calendar year, and annually thereafter. The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

CLASS II Title V Source Category	Administrative Fee
Synthetic minor sources, except portable sources	Administrative fee from Class I Title V table for category
<u>Air Curtain Destructors</u>	<u>\$ TBD</u>
Stationary	<u>\$ 8,690</u>
Portables	<u>\$ 8,690</u>
Small Source	<u>\$ 840</u>

Deleted: 5,640

Deleted: 5,640

Deleted: 560

E. Class II Non-Title V Fees. The owner or operator of a Class II Non-Title V source that has undergone initial startup by January 1 shall pay the applicable inspection fee from the table below, adjusted under subsection (H), for that calendar year, and annually thereafter. The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class II Non-Title V Source Category	Inspection Fee
Stationary	<u>\$ 5,630</u>
Portables	<u>\$ 5,630</u>
<u>Air Curtain Destructors</u>	<u>\$ TBD</u>
Gasoline Service Stations	<u>\$ 810</u>

Formatted Table

Deleted: 3,660

Deleted: 3,660

Deleted: 560

F. The Director shall mail the owner or operator of each source an invoice for all fees due under subsections (C), (D), or (E) by December 1.

G. Any person who receives a final itemized bill from the Director under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest as provided below:

1. The request shall be made in writing, and received by the Director within 30 days of the date of the final bill. Unless the Director and person agree otherwise, the informal review shall take place within 30 days after the Director's receipt of the request. The Director shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The Director shall review whether the amounts of time billed are correct and reasonable for the tasks involved. The Director shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.
2. The Director's decision after informal review shall become final unless, within 30 days after person's receipt of the informal review decision, the person requests a hearing under R18-1-202.
3. If the final itemized bill is paid under protest, the Director shall take final action on the permit or permit revision.

Deleted: November

Deleted: 5

Deleted: 4

Deleted: 98.80

Deleted: 4

Deleted: November

Deleted: 5

Deleted: 4

Formatted: Font: 9 pt

H. The Director shall adjust the hourly rate every November 1, to the nearest 10 cents per hour, beginning on 200*, by multiplying \$133.50 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 200*. The Director shall adjust the administrative or inspection fees listed in subsections (C), (D), and (E) every November 1, to the nearest \$10, beginning on 200*, by multiplying the administrative or inspection fee by

* - Date based on approval from Governor's Regulatory Review Council

the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 200*. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

Deleted: 4

I. An applicant for a Class I or Class II permit or permit revision may request that the Director provide accelerated processing of the application by providing the Director written notice 60 days before filing the application. The request shall be accompanied by an initial fee of \$15,000. The fee is non-refundable to the extent of the Director's costs for accelerating the processing if the Director undertakes the accelerated processing described below:

1. If an applicant requests accelerated permit processing, the Director may, to the extent practicable, undertake to process the permit or permit revision according to the following schedule:

a. For applications for initial Class I and II permits under R18-2-302 or significant permit revisions under R18-2-320, the Director shall issue or deny the proposed permit or permit revision within 120 days after the Director determines that the application is complete.

b. For minor permit revisions under R18-2-319, the Director shall issue or deny the permit revision within 60 days after receiving a complete application.

2. At any time after an applicant requests accelerated permit processing, the Director may require additional advance payments based on the most recent estimate of additional costs.

3. Upon completion of permit processing activities but before issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. The final bill shall include all regular permit processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs incurred by the Director in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the Director shall refund the excess advance payments. Nothing in this subsection affects the public participation requirements of R18-2-330, or EPA and affected state review as required under R18-2-307 or R18-2-319.

Formatted: Tabs: 387 pt, Left

J. Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding year shall pay 50 percent of the administrative or inspection fee required under subsection (C), (D), or (E). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the Director by December 15 of the calendar year for which the source was inactive. Termination of a permit does not relieve a source of any past fees due.

Deleted: October

Deleted: billing

K. If an applicant uses the Tier 4 method for conducting a risk management analysis (RMA) according to R18-2-1708(B), the applicant shall pay any costs incurred by the Director in contracting for, hiring or supervising work of outside consultants. L. Fees for Class I Title V Petroleum Refineries. The owner or operator of a Class I Title V petroleum refinery for which construction has commenced after January 1, 2007, shall pay to the Director an administrative fee plus an emissions-based fee annually as follows:

Deleted: ¶

1. The applicable administrative fee from the table below, as adjusted annually under subsection (H). The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

<u>Class I Title V Refinery</u>	<u>Administrative Fee</u>
---------------------------------	---------------------------

Formatted Table

Formatted: Font: 9 pt

* - Date based on approval from Governor's Regulatory Review Council

<u>Calendar Year During Which Commencement of Construction Occurred</u>	<u>\$96,250</u>
<u>First Calendar Year After Commencement of Construction</u>	<u>\$192,500</u>
<u>Second Calendar Year After Commencement of Construction</u>	<u>\$288,750</u>
<u>Each Subsequent Calendar Year After Commencement of Construction but Before Initial Startup</u>	<u>\$385,000</u>
<u>Each Calendar Year of or After Initial Start-Up</u>	<u>\$385,000</u>

2. An emissions-based fee for actual emissions of all regulated pollutants emitted during the previous calendar year ending 12 months earlier that shall be paid as described in subsection (C)(2).

Formatted: Left

M. Transition.

1. Subsections (A) through (J) of this Section are effective 200*. The first administrative or inspection fees are due on February 1, 200*.
2. Except as provided in subsection (b), all fees incurred after 200*, are payable in accordance with the rates contained in this Section.
 - a. Emission-based fees for calendar year 200* shall be billed at \$ 38.25 per ton and be due February 1, 200*.
 - b. The hourly rates and maximum fees for a new permit or permit revision are those in effect when the application for the permit or revision is determined to be complete.
 - c. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the Department.

Deleted: K

Deleted: November

Deleted: 5

Deleted: 4

Deleted: 5

Deleted: November

Deleted: 5

Deleted: 4

Deleted: 3

Deleted: 13,24

Deleted: 5

ARTICLE 5. GENERAL PERMITS

R18-2-511. Fees Related to General Permits

- A. Permit Processing Fee. The owner or operator of a source that applies for authority to operate under a general permit shall pay to the Director \$500 with the submittal of each application. This fee applies to the owner or operator of any source who intends to continue operating under the authority of a general permit that has been proposed for renewal. This fee also applies to requests for new Authorizations to Operate (ATOs) for new or modified equipment.
- B. Administrative or Inspection Fee. The owner or operator of a source required to have a general permit, that has undergone initial startup by January 1, shall pay, for each calendar year, the applicable administrative or inspection fee from the table below, by February 1 or 60 days after the Director mails the invoice, whichever is later.

Deleted: the

Formatted: Strikethrough

Deleted: with authority

Deleted: operate under

Deleted:

General Permit Source Category	Administrative Fee
Class I Title V General Permits	Administrative fee for category from R18-2-326(C)
<u>Class II Title V Air Curtain Destructors</u>	<u>\$ TBD</u>
Class II Title V Small Source	<u>\$ 840</u>
Other Class II Title V General Permits	<u>\$ 4,870</u>
	Inspection Fee

Deleted: 540

Deleted: 3,250

Formatted: Font: 9 pt

* - Date based on approval from Governor's Regulatory Review Council

Class II Non-Title V Air Curtain Destructors	\$ TBD
	\$
Class II Non-Title V Crematories	\$ 1,620
Other Class II Non-Title V General Permits	\$ 3,250

Deleted: Class II Non-Title V Gasoline Service Stations

Deleted: 540

Deleted: 1,080

Deleted: 2,170

* - Date based on approval from Governor's Regulatory Review Council

Formatted: Font: 9 pt